

109TH CONGRESS
2D SESSION

H. R. 5285

To provide a highway fuel tax holiday funded by the repeal of certain production incentives, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 3, 2006

Ms. LORETTA SANCHEZ of California introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Resources and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide a highway fuel tax holiday funded by the repeal of certain production incentives, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Gas Tax Equity Act
5 of 2006”.

6 **SEC. 2. HIGHWAY FUEL TAX HOLIDAY.**

7 (a) TEMPORARY ELIMINATION OF HIGHWAY FUEL
8 TAXES ON GASOLINE, DIESEL FUEL, AND KEROSENE.—

1 (1) IN GENERAL.—Section 4081 of the Internal
2 Revenue Code of 1986 (relating to imposition of tax
3 on gasoline, diesel fuel, and kerosene) is amended by
4 adding at the end the following new subsection:

5 “(f) TEMPORARY REDUCTION IN TAXES ON GASO-
6 LINE, DIESEL FUEL, AND KEROSENE.—

7 “(1) IN GENERAL.—During the applicable pe-
8 riod, each rate of tax referred to in paragraph (2)
9 shall be reduced to zero cents per gallon.

10 “(2) RATES OF TAX.—The rates of tax referred
11 to in this paragraph are the rates of tax otherwise
12 applicable under—

13 “(A) clauses (i) and (iii) of subsection
14 (a)(2)(A) (relating to gasoline, diesel fuel, and
15 kerosene), determined with regard to subsection
16 (a)(2)(B) and without regard to subsection
17 (a)(2)(C), and

18 “(B) paragraph (1) of section 4041(a) (re-
19 lating to diesel fuel and kerosene) with respect
20 to fuel sold for use or used in a diesel-powered
21 highway vehicle.

22 “(3) APPLICABLE PERIOD.—For purposes of
23 this subsection, the term ‘applicable period’ means
24 the 60-day period beginning with the day after the
25 date of the enactment of this subsection.

1 “(4) MAINTENANCE OF TRUST FUND DEPOS-
2 ITS.—In determining the amounts to be appro-
3 priated to the Highway Trust Fund under section
4 9503 and to the Leaking Underground Storage
5 Tank Trust Fund under 9508, an amount equal to
6 the reduction in revenues to the Treasury by reason
7 of this subsection shall be treated as taxes received
8 in the Treasury under this section or section 4041.”.

9 (2) EFFECTIVE DATE.—The amendment made
10 by this subsection shall take effect on the date of the
11 enactment of this Act.

12 (b) FLOOR STOCK REFUNDS.—

13 (1) IN GENERAL.—If—

14 (A) before the tax reduction date, tax has
15 been imposed under section 4081 of the Inter-
16 nal Revenue Code of 1986 on any liquid, and

17 (B) on such date such liquid is held by a
18 dealer and has not been used and is intended
19 for sale, there shall be credited or refunded
20 (without interest) to the person who paid such
21 tax (hereafter in this subsection referred to as
22 the “taxpayer”) an amount equal to the excess
23 of the tax paid by the taxpayer over the amount
24 of such tax which would be imposed on such liq-

1 uid had the taxable event occurred on the tax
2 reduction date.

3 (2) TIME FOR FILING CLAIMS.—No credit or re-
4 fund shall be allowed or made under this subsection
5 unless—

6 (A) claim therefor is filed with the Sec-
7 retary of the Treasury before the date which is
8 6 months after the tax reduction date, and

9 (B) in any case where liquid is held by a
10 dealer (other than the taxpayer) on the tax re-
11 duction date—

12 (i) the dealer submits a request for re-
13 fund or credit to the taxpayer before the
14 date which is 3 months after the tax re-
15 duction date, and

16 (ii) the taxpayer has repaid or agreed
17 to repay the amount so claimed to such
18 dealer or has obtained the written consent
19 of such dealer to the allowance of the cred-
20 it or the making of the refund.

21 (3) DEFINITIONS.—For purposes of this sub-
22 section—

23 (A) the terms “dealer” and “held by a
24 dealer” have the respective meanings given to
25 such terms by section 6412 of such Code; ex-

1 cept that the term “dealer” includes a pro-
2 ducer, and

3 (B) the term “tax reduction date” means
4 the day after the date of the enactment of this
5 Act.

6 (4) CERTAIN RULES TO APPLY.—Rules similar
7 to the rules of subsections (b) and (c) of section
8 6412 of such Code shall apply for purposes of this
9 subsection.

10 (c) FLOOR STOCKS TAX.—

11 (1) IMPOSITION OF TAX.—In the case of any
12 liquid on which tax would have been imposed under
13 section 4081 of the Internal Revenue Code of 1986
14 during the applicable period but for the amendments
15 made by subsection (a), and which is held on the
16 floor stocks tax date by any person, there is hereby
17 imposed a floor stocks tax in an amount equal to the
18 tax which would be imposed on such liquid had the
19 taxable event occurred on the floor stocks tax date.

20 (2) LIABILITY FOR TAX AND METHOD OF PAY-
21 MENT.—

22 (A) LIABILITY FOR TAX.—A person hold-
23 ing a liquid on the floor stocks tax date to
24 which the tax imposed by paragraph (1) applies
25 shall be liable for such tax.

1 (B) METHOD OF PAYMENT.—The tax im-
2 posed by paragraph (1) shall be paid in such
3 manner as the Secretary shall prescribe.

4 (C) TIME FOR PAYMENT.—The tax im-
5 posed by paragraph (1) shall be paid on or be-
6 fore the date which is 6 months after the floor
7 stocks tax date.

8 (3) DEFINITIONS.—For purposes of this sub-
9 section—

10 (A) HELD BY A PERSON.—A liquid shall
11 be considered as “held by a person” if title
12 thereto has passed to such person (whether or
13 not delivery to the person has been made).

14 (B) GASOLINE AND DIESEL FUEL.—The
15 terms “gasoline” and “diesel fuel” have the re-
16 spective meanings given such terms by section
17 4083 of such Code.

18 (C) FLOOR STOCKS TAX DATE.—The term
19 “floor stocks tax date” means the day after the
20 date determined by the Secretary under section
21 4081(f)(3) of such Code.

22 (D) APPLICABLE PERIOD.—The term “ap-
23 plicable period” means the period described in
24 section 4081(f)(3) of such Code.

1 (E) SECRETARY.—The term “Secretary”
2 means the Secretary of the Treasury or the
3 Secretary’s delegate.

4 (4) EXCEPTION FOR EXEMPT USES.—The tax
5 imposed by paragraph (1) shall not apply to gaso-
6 line, diesel fuel, or kerosene held by any person ex-
7 clusively for any use to the extent a credit or refund
8 of the tax imposed by section 4081 of such Code is
9 allowable for such use.

10 (5) EXCEPTION FOR FUEL HELD IN VEHICLE
11 TANK.—No tax shall be imposed by paragraph (1)
12 on gasoline, diesel fuel, or kerosene held in the tank
13 of a motor vehicle.

14 (6) EXCEPTION FOR CERTAIN AMOUNTS OF
15 FUEL.—

16 (A) IN GENERAL.—No tax shall be im-
17 posed by paragraph (1)—

18 (i) on gasoline (other than aviation
19 gasoline) held on the floor stocks tax date
20 by any person if the aggregate amount of
21 gasoline held by such person on such date
22 does not exceed 4,000 gallons, and

23 (ii) on diesel fuel or kerosene held on
24 such date by any person if the aggregate
25 amount of diesel fuel or kerosene held by

1 such person on such date does not exceed
2 2,000 gallons.

3 The preceding sentence shall apply only if such
4 person submits to the Secretary (at the time
5 and in the manner required by the Secretary)
6 such information as the Secretary shall require
7 for purposes of this subparagraph.

8 (B) EXEMPT FUEL.—For purposes of sub-
9 paragraph (A), there shall not be taken into ac-
10 count fuel held by any person which is exempt
11 from the tax imposed by paragraph (1) by rea-
12 son of paragraph (4) or (5).

13 (C) CONTROLLED GROUPS.—For purposes
14 of this paragraph—

15 (i) CORPORATIONS.—

16 (I) IN GENERAL.—All persons
17 treated as a controlled group shall be
18 treated as 1 person.

19 (II) CONTROLLED GROUP.—The
20 term “controlled group” has the
21 meaning given to such term by sub-
22 section (a) of section 1563 of such
23 Code; except that for such purposes
24 the phrase “more than 50 percent”
25 shall be substituted for the phrase “at

1 least 80 percent” each place it ap-
 2 pears in such subsection.

3 (ii) NONINCORPORATED PERSONS
 4 UNDER COMMON CONTROL.—Under regula-
 5 tions prescribed by the Secretary, prin-
 6 ciples similar to the principles of clause (i)
 7 shall apply to a group of persons under
 8 common control where 1 or more of such
 9 persons is not a corporation.

10 (7) OTHER LAW APPLICABLE.—All provisions of
 11 law, including penalties, applicable with respect to
 12 the taxes imposed by section 4081 of such Code
 13 shall, insofar as applicable and not inconsistent with
 14 the provisions of this paragraph, apply with respect
 15 to the floor stock taxes imposed by paragraph (1) to
 16 the same extent as if such taxes were imposed by
 17 such section 4081.

18 (d) BENEFITS OF TAX REDUCTION SHOULD BE
 19 PASSED ON TO CONSUMERS.—

20 (1) PASSTHROUGH TO CONSUMERS.—

21 (A) SENSE OF CONGRESS.—It is the sense
 22 of Congress that—

23 (i) consumers immediately receive the
 24 benefit of the reduction in taxes under this
 25 section, and

1 (ii) transportation motor fuels pro-
2 ducers and other dealers take such actions
3 as necessary to reduce transportation
4 motor fuels prices to reflect such reduc-
5 tion, including immediate credits to cus-
6 tomer accounts representing tax refunds
7 allowed as credits against excise tax de-
8 posit payments under the floor stocks re-
9 fund provisions of this section.

10 (B) STUDY.—

11 (i) IN GENERAL.—The Comptroller
12 General of the United States shall conduct
13 a study of the reduction of taxes under
14 this section to determine whether there has
15 been a passthrough of such reduction.

16 (ii) REPORT.—Not later than 30 days
17 after the date of the enactment of this Act,
18 the Comptroller General of the United
19 States shall report to the Committee on
20 Finance of the Senate and the Committee
21 on Ways and Means of the House of Rep-
22 resentatives the results of the study con-
23 ducted under clause (i).

1 **SEC. 3. ELIMINATION OF CERTAIN PRODUCTION INCEN-**
2 **TIVES.**

3 (a) IN GENERAL.—Sections 342, 344, 345, 346, 353,
4 and 383 and subtitle J of title IX of the Energy Policy
5 Act of 2005 and section 107(k) of the Naval Petroleum
6 Reserves Production Act of 1976 (as added by section 347
7 of the Energy Policy Act of 2005) are repealed.

8 (b) EFFECTIVE DATE.—The repeals made by sub-
9 section (a) shall take effect on the date of the enactment
10 of the Energy Policy Act of 2005.

11 **SEC. 4. REVALUATION OF LIFO INVENTORIES OF LARGE IN-**
12 **TEGRATED OIL COMPANIES.**

13 (a) GENERAL RULE.—Notwithstanding any other
14 provision of law, if a taxpayer is an applicable integrated
15 oil company for its last taxable year ending in calendar
16 year 2005, the taxpayer shall—

17 (1) increase, effective as of the close of such
18 taxable year, the value of each historic LIFO layer
19 of inventories of crude oil, natural gas, or any other
20 petroleum product (within the meaning of section
21 4611) by the layer adjustment amount, and

22 (2) decrease its cost of goods sold for such tax-
23 able year by the aggregate amount of the increases
24 under paragraph (1).

25 If the aggregate amount of the increases under paragraph
26 (1) exceed the taxpayer's cost of goods sold for such tax-

1 able year, the taxpayer's gross income for such taxable
 2 year shall be increased by the amount of such excess.

3 (b) LAYER ADJUSTMENT AMOUNT.—For purposes of
 4 this section—

5 (1) IN GENERAL.—The term “layer adjustment
 6 amount” means, with respect to any historic LIFO
 7 layer, the product of—

8 (A) \$18.75, and

9 (B) the number of barrels of crude oil (or
 10 in the case of natural gas or other petroleum
 11 products, the number of barrel-of-oil equiva-
 12 lents) represented by the layer.

13 (2) BARREL-OF-OIL EQUIVALENT.—The term
 14 “barrel-of-oil equivalent” has the meaning given
 15 such term by section 29(d)(5) (as in effect before its
 16 redesignation by the Energy Tax Incentives Act of
 17 2005).

18 (c) APPLICATION OF REQUIREMENT.—

19 (1) NO CHANGE IN METHOD OF ACCOUNTING.—
 20 Any adjustment required by this section shall not be
 21 treated as a change in method of accounting.

22 (2) UNDERPAYMENTS OF ESTIMATED TAX.—No
 23 addition to the tax shall be made under section 6655
 24 of the Internal Revenue Code of 1986 (relating to
 25 failure by corporation to pay estimated tax) with re-

1 spect to any underpayment of an installment re-
2 quired to be paid with respect to the taxable year
3 described in subsection (a) to the extent such under-
4 payment was created or increased by this section.

5 (d) APPLICABLE INTEGRATED OIL COMPANY.—For
6 purposes of this section, the term “applicable integrated
7 oil company” means an integrated oil company (as defined
8 in section 291(b)(4) of the Internal Revenue Code of
9 1986) which has an average daily worldwide production
10 of crude oil of at least 500,000 barrels for the taxable
11 year and which had gross receipts in excess of
12 \$1,000,000,000 for its last taxable year ending during cal-
13 endar year 2005. For purposes of this subsection all per-
14 sons treated as a single employer under subsections (a)
15 and (b) of section 52 of the Internal Revenue Code of
16 1986 shall be treated as 1 person and, in the case of a
17 short taxable year, the rule under section 448(c)(3)(B)
18 shall apply.

19 **SEC. 5. ELIMINATION OF AMORTIZATION OF GEOLOGICAL**
20 **AND GEOPHYSICAL EXPENDITURES FOR**
21 **MAJOR INTEGRATED OIL COMPANIES.**

22 (a) IN GENERAL.—Section 167(h) of the Internal
23 Revenue Code of 1986 is amended by adding at the end
24 the following new paragraph:

1 “(5) NONAPPLICATION TO MAJOR INTEGRATED
 2 OIL COMPANIES.—This subsection shall not apply
 3 with respect to any expenses paid or incurred for
 4 any taxable year by any integrated oil company (as
 5 defined in section 291(b)(4)) which has an average
 6 daily worldwide production of crude oil of at least
 7 500,000 barrels for such taxable year.”.

8 (b) EFFECTIVE DATE.—The amendment made by
 9 this section shall take effect as if included in the amend-
 10 ment made by section 1329(a) of the Energy Policy Act
 11 of 2005.

12 **SEC. 6. MODIFICATIONS OF FOREIGN TAX CREDIT RULES**
 13 **APPLICABLE TO LARGE INTEGRATED OIL**
 14 **COMPANIES WHICH ARE DUAL CAPACITY**
 15 **TAXPAYERS.**

16 (a) IN GENERAL.—Section 901 of the Internal Rev-
 17 enue Code of 1986 (relating to credit for taxes of foreign
 18 countries and of possessions of the United States) is
 19 amended by redesignating subsection (m) as subsection
 20 (n) and by inserting after subsection (l) the following new
 21 subsection:

22 “(m) SPECIAL RULES RELATING TO LARGE INTE-
 23 GRATED OIL COMPANIES WHICH ARE DUAL CAPACITY
 24 TAXPAYERS.—

1 “(1) GENERAL RULE.—Notwithstanding any
2 other provision of this chapter, any amount paid or
3 accrued by a dual capacity taxpayer which is a large
4 integrated oil company to a foreign country or pos-
5 session of the United States for any period shall not
6 be considered a tax—

7 “(A) if, for such period, the foreign coun-
8 try or possession does not impose a generally
9 applicable income tax, or

10 “(B) to the extent such amount exceeds
11 the amount (determined in accordance with reg-
12 ulations) which—

13 “(i) is paid by such dual capacity tax-
14 payer pursuant to the generally applicable
15 income tax imposed by the country or pos-
16 session, or

17 “(ii) would be paid if the generally ap-
18 plicable income tax imposed by the country
19 or possession were applicable to such dual
20 capacity taxpayer.

21 Nothing in this paragraph shall be construed to
22 imply the proper treatment of any such amount
23 not in excess of the amount determined under
24 subparagraph (B).

1 “(2) DUAL CAPACITY TAXPAYER.—For pur-
2 poses of this subsection, the term ‘dual capacity tax-
3 payer’ means, with respect to any foreign country or
4 possession of the United States, a person who—

5 “(A) is subject to a levy of such country or
6 possession, and

7 “(B) receives (or will receive) directly or
8 indirectly a specific economic benefit (as deter-
9 mined in accordance with regulations) from
10 such country or possession.

11 “(3) GENERALLY APPLICABLE INCOME TAX.—
12 For purposes of this subsection—

13 “(A) IN GENERAL.—The term ‘generally
14 applicable income tax’ means an income tax (or
15 a series of income taxes) which is generally im-
16 posed under the laws of a foreign country or
17 possession on income derived from the conduct
18 of a trade or business within such country or
19 possession.

20 “(B) EXCEPTIONS.—Such term shall not
21 include a tax unless it has substantial applica-
22 tion, by its terms and in practice, to—

23 “(i) persons who are not dual capacity
24 taxpayers, and

1 “(ii) persons who are citizens or resi-
2 dents of the foreign country or possession.

3 “(4) LARGE INTEGRATED OIL COMPANY.—For
4 purposes of this subsection, the term ‘large inte-
5 grated oil company’ means, with respect to any tax-
6 able year, an integrated oil company (as defined in
7 section 291(b)(4)) which—

8 “(A) had gross receipts in excess of
9 \$1,000,000,000 for such taxable year, and

10 “(B) has an average daily worldwide pro-
11 duction of crude oil of at least 500,000 barrels
12 for such taxable year.”

13 (b) EFFECTIVE DATE.—

14 (1) IN GENERAL.—The amendments made by
15 this section shall apply to taxes paid or accrued in
16 taxable years beginning after the date of the enact-
17 ment of this Act.

18 (2) CONTRARY TREATY OBLIGATIONS
19 UPHELD.—The amendments made by this section
20 shall not apply to the extent contrary to any treaty
21 obligation of the United States.

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